

October 10, 2022

**Via ECF**

The Honorable Lorna G. Schofield  
United States District Court  
Southern District of New York 500  
Pearl Street, Room 1950  
New York, NY 10007

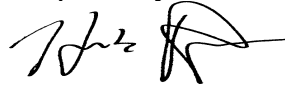
**Re: *Volino, et. al. v. Progressive Casualty Ins. Co., et al.*, No. 1:21-cv-06243-LGS**

Dear Judge Schofield:

Pursuant to this Court's Order (ECF No. 108), Plaintiffs will be contemporaneously filing a renewed pre-motion letter setting forth the legal grounds for their motion for class certification. Plaintiffs filed their original pre-motion letter on March 25, 2022 (ECF Nos. 95 & 96) and at that time moved for leave to file certain portions of the letter under seal (ECF No. 94), which the Court granted (ECF No. 103). Counsel for Plaintiffs have again conferred with counsel for Defendants and counsel for third-parties Mitchell International, Inc. ("Mitchell"), and J.D. Power & Associates. Each of those entities has requested that the information they designated "Confidential" or "Highly Confidential" again be filed under seal.

Pursuant to Rule I.D.3 of the Court's Individual Rules of Practice, and the Stipulated Protective Order entered on October 21, 2021 (Doc. 45), Plaintiffs respectfully request leave to file under seal Plaintiffs' renewed letter-motion requesting a pre-motion conference to file a motion for class certification. The letter-motion references and discusses information that Defendants Progressive Advanced Insurance Company ("PAIC"), Progressive Max Insurance Company ("PMIC"), and Progressive Casualty Insurance Company ("PCIC") (collectively "Defendants") have designated as confidential as well as information that third parties Mitchell and J.D. Power have designated as confidential. Plaintiff seeks leave to file the letter-motion under seal to protect Defendants', Mitchell's and J.D. Power's confidential information. Pursuant to Rule I.D.3, and paragraph ten of the Stipulated Protective Order, a redacted copy of the letter-motion will be publicly filed contemporaneously, along with a copy of the unredacted letter with highlighted redactions under seal.

Respectfully submitted,



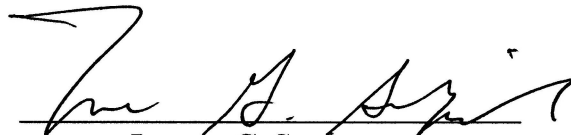
Hank Bates

cc: All Counsel of Record via ECF

Application GRANTED. Even assuming Plaintiffs' pre-motion letter is a judicial document subject to the presumption of public access, that presumption is due relatively little weight because the redacted information is immaterial to Plaintiffs' request. *Lugosch v. Pyramid Co. of Onondaga*, 435 F.3d 110, 119-20 (2d Cir. 2006). If this information is material to Plaintiffs' motion for class certification, a stronger presumption may apply at that stage. At this juncture, the presumption of public access is outweighed by Defendants' and third parties' interests in protecting the confidentiality of sensitive business information, and the redactions are narrowly drawn to that sensitive information. *Id.* at 120.

The Clerk of Court is respectfully directed to maintain document at at Dkt. No. 155 under seal with viewing privileges limited to the parties and individuals in Appendix 1, and to close the motion at Dkt. No. 153.

Dated: October 17, 2022  
New York, New York



LORNA G. SCHOFIELD

UNITED STATES DISTRICT JUDGE

## APPENDIX 1

Pursuant to Rule I.D(3), the following attorneys of record should have access to the sealed letter-motion requesting a premotion conference on Plaintiffs' motion for class certification:

Counsel for Plaintiffs	Counsel for Defendants
<p>Jacob L. Phillips (<i>Pro Hac Vice</i>)  <b>NORMAND PLLC</b>  3165 McCrory Place, Suite 175  Orlando, FL 32803  Telephone: (407) 603-6031  Email: <a href="mailto:jacob.phillips@normandpllc.com">jacob.phillips@normandpllc.com</a>  Email: <a href="mailto:ean@normandpllc.com">ean@normandpllc.com</a></p> <p>Joseph Henry (Hank) Bates, III (<i>Pro Hac Vice</i>)  Tiffany Wyatt Oldham (<i>Pro Hac Vice</i>)  Edwin Lee Lowther III (<i>Pro Hac Vice</i>)  Jake G. Windley (<i>Pro Hac Vice</i>)  <b>Carney Bates &amp; Pulliam, PLLC</b>  519 W. 7th Street  Little Rock, AR 72201  Telephone: (501) 312-8500  Email: <a href="mailto:hbates@cbplaw.com">hbates@cbplaw.com</a>  Email: <a href="mailto:toldham@cbplaw.com">toldham@cbplaw.com</a>  Email: <a href="mailto:llowther@cbplaw.com">llowther@cbplaw.com</a>  Email: <a href="mailto:jwindley@cbplaw.com">jwindley@cbplaw.com</a></p> <p>Mariam Grigorian (<i>Pro Hac Vice</i>)  <b>Shamis &amp; Gentile, P.A.</b>  14 NE 1st Avenue, Suite 705  Miami, FL 33132  Telephone: (305) 479-2299  Email: <a href="mailto:mgrigorian@shamisgentile.com">mgrigorian@shamisgentile.com</a></p> <p>Scott Adam Edelsberg (<i>Pro Hac Vice</i>)  Christopher Chagas Gold (<i>Pro Hac Vice</i>)  <b>Edelsberg Law</b>  20900 NE 30th Avenue, Suite 417  Aventura, FL 33180  Telephone: (305) 975-3320  Email: <a href="mailto:scott@edelsberglaw.com">scott@edelsberglaw.com</a>  Email: <a href="mailto:chris@edelsberglaw.com">chris@edelsberglaw.com</a></p>	<p>Laura Elizabeth Harris  <b>King &amp; Spalding LLP</b>  1185 Avenue of the Americas  New York, NY 10036  Telephone: (212) 790-5360  Fax: (212) 556-2222  Email: <a href="mailto:lharris@kslaw.com">lharris@kslaw.com</a></p> <p>Jeffrey Cashdan (<i>Pro Hac Vice</i>)  Allison Hill White (<i>Pro Hac Vice</i>)  James Matthew Brigman (<i>Pro Hac Vice</i>)  Zachary Andrew McEntyre (<i>Pro Hac Vice</i>)  <b>King &amp; Spalding LLP</b>  1180 Peachtree Street NE, Suite 1600  Atlanta, GA 30309  Telephone: (404) 572-5600  Email: <a href="mailto:jcashdan@kslaw.com">jcashdan@kslaw.com</a>  Email: <a href="mailto:awhite@kslaw.com">awhite@kslaw.com</a>  Email: <a href="mailto:mbrigman@kslaw.com">mbrigman@kslaw.com</a>  Email: <a href="mailto:zmcentyre@kslaw.com">zmcentyre@kslaw.com</a></p> <p>Julia Constance Barrett (<i>Pro Hac Vice</i>)  <b>King &amp; Spalding LLP</b>  500 W. 2nd Street, Suite 1800  Austin, TX 78701  Telephone: (512) 457-2053  Email: <a href="mailto:jbarrett@kslaw.com">jbarrett@kslaw.com</a></p>

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